

November 16, 1936

Mr. Allan L. Bullock,
Lonetree, Wyoming

Dear Sir:

I am in receipt of your letter of November 11, 1936 which is in reference to a water right you claim from West Beaver creek, Summit county, Utah. Said water being diverted through the Whipple Ditch for the irrigation of lands located in Wyoming, and more particularly described as being located in Sec. 19, T 12 N., R. 113 W. You state that the water has been used on this land for over 35 years, and then ask how you may get a record title of your water right.

In reply I wish to advise that from a study of the files in this office I am not sure that your right, by virtue of use extending back over 35 years, would be upheld in case of an adjudication of the waters of Beaver creek. Since, if I get the picture correctly, the homestead upon which you are using the water was taken up 35 or more years ago but relinquished two or three times before it was finally taken up and patented subsequent to 1903 by a Mr. Bullock, from whom I understand you purchased this land.

I am of the opinion that in each case where this homestead was relinquished, the water reverted to the state, the exception being, if you can show the proper transfer and chain of title extending from the early homesteaders prior to 1903 to yourself. If first be true, the only way you could acquire a right to the use of the water would be by virtue of an Application to appropriate, filed in the Utah State Engineer's office as outlined by the statutes. The priority of the right would then be determined from the date you filed your Application, provided the Application was kept in good standing as required by law.

On the other hand, if your right can be established as a result of use, prior to 1903, by the early homesteaders who relinquished their rights your priority will date from the time the water was diverted from the stream only to the extent; however, of the use that was made prior to 1903.

I understand the Whipple Ditch has been enlarged considerably in recent years. If this be true, the enlargement has not carried with it an additional water right.

Mr. Allen L. Bullock 11/16/36

In case you have a right with the priority earlier than 1903, there is no way that you may get a record title of said right, except the water be adjudicated by the court. If, and when this is done the signed decree of the court will be your record title. Since the Beaver creek is an inter-state stream, this adjudication would no doubt be heard in the Federal Courts.

Yours very truly,

T. H. Humphreys
STATE ENGINEER

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